

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT PETITION NO : 15759 of 1994

Between:

B.Manga Raju, S/o. Late Laxmana Rao, since deceased by L.R.
R/o. Visakhapatnam.

..... PETITIONER

AND

1. The Asst. Commissioner of Endowments, Endowments Department, Hyderabad.
2. The Regional Joint Commissioner, M.S.I, Endowments Department, Hyderabad.
3. State of Andhra Pradesh, rep.by Secretary,
Revenue (Endowments) Dept. Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to To call for records and quash the order of the Regional Joint Commissioner made in R.P.NO.33/92,dt.30-8-1993 confirming the order of appoinment of non-hereditary trustee by the Asst.Commissioner and declare the petiitoner and his predecessors interested as hereditary trustees of Durgamma Temple,Velamapeta,Visakhapatnam.

Counsel for the Petitioner:MR.T.DASARADHA RAMAIAH

Counsel for the Respondents: GP FOR ENDOWMENTS

The Court made the following:

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ORDER:

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This petition is filed seeking writ of certiorari, to quash the order of the Regional Joint Commissioner made in R.P.No.33/92 dated 30-8-1993 confirming the order appointing the petitioner's father as non-hereditary trustee by the Assistant Commissioner and declare that the petitioner and his predecessors interested as hereditary trustees of Durgamma temple, Velamapeta. Visakhapatnam.

2. It is the case of the petitioner that his grand father Sanyasaiah constructed a temple at Velamapeta, and got installed the diety Durgamma. During his tenure he was recognized as a hereditary trustee. As early as 1951, the Endowments department issued notice to the grand father of the petitioner to pay contribution charges and audit fees. After the death of Sanyasaiah, the petitioner's father was continued as hereditary trustee as legal representative of his father from 1960-67. In the year 1967 for the first time, the Department appointed trustees including the father of the petitioner as non-hereditary trustees. The petitioner's father was continued as trustee till his death on 31-10-1993. During his lifetime, the petitioner's father filed R.P.No.33/92 before the second respondent herein challenging the order passed by the first respondent in Rc.No.A1/1192/92 dated 27-01-1992 in regard to the constitution of a Board of non-hereditary trustees to the temple in question with the petitioner and the respondents 2 to 5 therein. The 2nd respondent by his impugned order dismissed the revision petition filed by the petitioner's father. It is stated that this fact came to the knowledge of the petitioner when he was searching

for the other records, after the death of his father. The petitioner now claims that himself and his predecessors' interested are entitled to be appointed as hereditary trustees of Durgamma temple, Velamapeta. Visakhapatnam.

3. Heard the learned Counsel for the parties.

4. Having regard to the facts and circumstances of the case and in as much as it is stated that the petitioner came to know about the passing of the impugned order, only after the death of his father, in the interest of justice, it is expedient that the petitioner be permitted to file application as provided under Section 87(e) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987(for short, 'the Act'). In as much as there is a remedy available to the petitioner to file application under Section 87(e) of the Act and without exhausting such remedy, the petitioner came to this Court straight away by filing the present writ petition, without going into the merits of the case, the petitioner is permitted to make an application as provided under Section 87 (e) of the Act, before the appropriate Forum and on such an application being filed by the petitioner, the same shall be considered and disposed of in accordance with law.

5. The writ petition is disposed of with the above direction. No costs.

GHULAM MOHAMMED, J

26-08-2004

Glv

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copies to

1. The Asst. Commissioner of Endowments, Endowments Department, Hyderabad.
2. The Regional Joint Commissioner, M.S.I, Endowments Department, Hyderabad.
3. The Secretary, Revenue (Endowments) Dept. State of Andhra Pradesh, ,Hyderabad.
4. Two C Cs to the Government Pleader for Endowments, High Court Buildings, Hyderaad. (O.U.T)
5. Two C D copies.